

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

<i>H.R., a minor, by and through his parents</i>	§	
<i>KASSIE K. RIVERA and HIGINIO RIVERA,</i>	§	
<i>as next friends of H.R., a minor,</i>	§	
<i>KASSIE K. RIVERA, individually, and</i>	§	
<i>HIGINIO RIVERA, individually,</i>	§	
Plaintiffs,	§	
	§	
v.	§	Civil Action No. A-12-CA-338-JRN
	§	
<i>UNITED STATES OF AMERICA,</i>	§	
Defendant.	§	

**PLAINTIFFS' AMENDED MOTION TO APPROVE SETTLEMENT ON BEHALF OF A
MINOR**

Plaintiffs, by and through their counsel, Kenneth M. Suggs of Janet, Jenner & Suggs, L.L.C move the Court for an Order approving the settlement of the claims in this lawsuit on behalf of the minor child, H.R.

The parties have reached a proposed settlement in this case. The settlement requires the approval of the Associate Attorney General of the United States, and Department of Justice procedures require that the Court approve the proposed settlement prior to formal, final review of and action on the proposed settlement. The precise terms and conditions of the settlement are set forth in the Stipulation for Compromise and Release of Federal Tort Claims Act Pursuant to 28 U.S.C § 2677 (hereinafter "Stipulation") and the Irrevocable Reversionary Inter Vivos Grantor Medical Care Trust for the Benefit of H.R. (hereinafter "Reversionary Trust"), attached as Exhibits "A" and "B." An audited statement of costs incurred by Plaintiffs' counsel is attached as Exhibit "C."

Plaintiffs request approval of attorney's fees in the amount of 25% of the settlement, or \$1,625,000. The fee contract between Plaintiffs and counsel is attached as Exhibit "D."

The Plaintiffs believe that the terms and conditions of this settlement, as set forth in the Stipulation and Reversionary Trust are fair, reasonable, and in the best interest of H.R., the minor child Plaintiff.

The Guardian ad Litem proposed various changes to the Stipulation, a number of which the parties accepted. In addition, the Guardian ad Litem recommends for the Plaintiffs', the Government's and the Court's consideration that the Stipulation be further revised to:

- provide for reimbursement and payment only of "valid, enforceable liens" and claims from the settlement proceeds awarded on behalf of the minor child, H.R. (as opposed to the broad, unlimited language currently included in the Stipulation); and
- provide that the Court should be afforded the opportunity to retain jurisdiction over the enforcement of the settlement of this matter.

The Plaintiffs concur with the proposed qualifying lien/claim language. Plaintiffs do not object to the existing Stipulation language relating to the Court's relinquishment of jurisdiction. The Plaintiffs respectfully request that the Court approve the proposed settlement and issue the proposed Order Approving Settlement on Behalf of Minor accordingly.

Respectfully submitted,

JANET, JENNER & SUGGS, L.L.C.
WILLIAMS & BROWN, L.L.P.

By: /s/ Kenneth M. Suggs

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ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing Plaintiffs' Amended Motion to Approve Settlement on Behalf of a Minor has been filed electronically served via CM/ECF to the following parties on this the 2nd day December 2013.

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